

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JESUS LINARES,

Plaintiff,

- against -

LARRY RICHARDS and
STAGE C PARTNERS, INC.,

Defendants.

-----X
MAUSKOPF, United States District Judge.

ORDER
08-CV-3243 (RRM) (RLM)

Plaintiff Jesus Linares (“Plaintiff”) commenced this action against Defendants Larry Richards (“Richards”) and Stage C Partners, Inc. (“Stage C”) (collectively, “Defendants”) in August 2008. Plaintiff filed an amended complaint (Docket No. 12 (the “Complaint”)) on October 24, 2008, asserting claims for breach of contract, unjust enrichment, conversion, and fraudulent inducement against both Defendants.

Defendants moved to dismiss the Amended Complaint in part pursuant to Federal Rule of Civil Procedure 12(b)(6) on December 5, 2008 (Docket No. 14). Specifically, Defendants moved to dismiss all claims against Richards and all claims but one – the breach of contract claim – against Stage C.

By Order entered March 25, 2009, this Court referred the Defendants’ motion to the assigned Magistrate Judge, the Honorable Roanne L. Mann, for a Report and Recommendation. On June 22, 2009, Judge Mann issued a Report and Recommendation (Docket No. 15 (the “R&R”)) that Defendants’ motion be granted in part and denied in part. Judge Mann recommended denying the motion with respect to Plaintiff’s unjust enrichment and conversion claims, and granting the motion with respect to the breach of contract claim against Richards and the fraudulent inducement

claim against both Defendants. Judge Mann further recommended that Plaintiff be granted leave to file a second amended complaint to cure the pleading deficiencies identified in her R&R.

Finally, Judge Mann reminded the parties that, pursuant to Rule 72(b), any objection to the R&R was due by July 6, 2009. Neither party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, adopts Judge Mann's thorough and well reasoned R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, the Court hereby ORDERS as follows:

- (1) The motion to dismiss Plaintiff's breach of contract claim against Defendant Richards is GRANTED, and that claim is DISMISSED with leave to re-plead;
- (2) The motion to dismiss Plaintiff's unjust enrichment and conversion claims is DENIED; and
- (3) The motion to dismiss the fraudulent inducement claim is GRANTED, and that claim is DISMISSED with leave to re-plead.

If Plaintiff chooses to file a Second Amended Complaint, he shall do so by no later than August 21, 2009. The parties are directed to contact Judge Mann for purposes of setting a discovery schedule and addressing any other preliminary issues in this case.

SO ORDERED.

s/ RRM

Dated: Brooklyn, New York
August 3, 2009

ROSLYNN R. MAUSKOPF
United States District Judge